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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,177	07/02/2002	Daniel Hosten	KSN0023	7556

27187 7590 07/02/2004

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EXAMINER
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NICOLAS, WESLEY A

ART UNIT	PAPER NUMBER
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1742

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/069,177	Applicant(s) HOSTEN ET AL.	
	Examiner Wesley A. Nicolas	Art Unit 1742	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

This is in response to the Amendment submitted April 6, 2004. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-18 are currently pending in this application.

#### **Claim Rejections - 35 USC § 112**

1. The 35 U.S.C. § 112 rejections to claims 2, and 8-11 as set forth in the previous Office action have been **withdrawn** in view of the amendment submitted by Applicant on April 6, 2004.

#### **Claim Rejections - 35 USC § 102**

2. Claims 1, 3, 12, 13, 15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Reynolds (U.S. 5,597,460).

The 35 U.S.C. § 102 rejections pertaining to claims 1, 3, 12, 13, 15, and 17 as set forth in the previous Office action have been **maintained** and are incorporated herein by reference.

#### **Claim Rejections - 35 USC § 103**

3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds (U.S. 5,597,460) as applied to claim 12 above, and further in view of Haydu et al. (U.S. 6,024,856).

The 35 U.S.C. § 103 rejection pertaining to claim 18 as set forth in the previous Office action has been **maintained** and are incorporated herein by reference.

**Allowable Subject Matter**

4. Claims 2, 4, 7, 14 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 2 and 14, the specific feature of having a varying size and number of pores across the overall filter area such that there is a pressure differential between the inflow/outflow pipes was not taught or suggested by the prior art of record.

Regarding claims 4 and 16, the specific configuration of the flow chamber in relation to the sample and its axis of rotation was not taught or suggested by the prior art of record.

Regarding claim 7, the specific use of a throttle valve and the supply container having a means for filtering as well as regulating the pH value and filling level were not taught or suggested by the prior art of record.

**REMARKS - Response to Arguments**

6. Applicant's arguments traversing the prior art rejections filed April 6, 2004 have been fully considered but they are not persuasive.

Regarding claim 1, Applicant asserts that the Reynolds references fails to specifically teach "an outflow container, and outflow tube, and an inflow tube."  
(response submitted 4/6/04, page 8).

In response, Examiner must respectfully disagree. Applicant's "outflow container" is essentially a fluid reservoir. As such, Reynolds discloses a fluid reservoir as "holding tank **38**" (Fig. 1, and col. 5, lines 20-21). Applicant argues that their invention has two distinct and separate containers, namely an inflow and outflow container. However, in interpreting the claims and applying the Reynolds reference, Examiner must point out that each container in Reynolds (*i.e.* tank **38** and plating cell **10**) can act as either an inflow container and an outflow container because each container has fluid flowing into it and fluid flowing out of it. This fact should have been clearly apparent to Applicant.

Applicant further asserts that that "Reynolds also fails to disclose the inflow and outflow tubes recited in claim 1." (response submitted 4/6/04, page 8). Applicant further argues that the instant invention has separate and distinct inflow/outflow tubes and pipes.

In response, Examiner has interpreted Applicants inflow/outflow tubes as merely an extension of the inflow/outflow pipes and it appears that Applicant is merely labeling one end of the liquid conduit as a "tube" and the other end as a "pipe". Applicant can

call the tubes/pipes whatever he wants, but Examiner asserts that Reynolds teaches the same identical structure.

Regarding claim 12, Applicant asserts that Reynolds “does not teach inflow and outflow manifolds positioned on opposite ends of the flow chamber.” (response submitted 4/6/04, page10). Examiner must respectfully disagree. In fact, Examiner pointed out in the previous Office action that an inflow manifold and an outflow manifold are positioned on opposite ends of said flow chamber (Fig. 1, numerals 44 and 30 where numeral 30 obtains fluid from just below numeral 20 at the weir). While Reynolds does not go into detail about the flow just below numeral 20 at the weir, it appears that numeral 30 extends to that location, although not viewable from Fig. 1.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

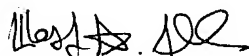
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Art Unit: 1742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wesley Nicolas whose telephone number is (571) 272-1247. The examiner can normally be reached on Mon.-Thurs. from 7 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King, can be reached at (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov> . Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Wesley A. Nicolas  
Primary Examiner

June 28, 2004